

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

EBEN ALEXANDER, III, M.D.

Plaintiff,

Case No. 04-10738 MLW

V.

BRIGHAM AND WOMEN'S PHYSICIANS  
ORGANIZATION, INC., successor to  
Brigham Surgical Group Foundation, Inc.,  
BOSTON NEUROSURGICAL FOUNDATION  
INC., BRIGHAM SURGICAL GROUP  
FOUNDATION, INC. DEFERRED  
COMPENSATION PLAN, BRIGHAM  
SURGICAL GROUP FOUNDATION, INC.  
FACULTY RETIREMENT BENEFIT  
PLAN, COMMITTEE ON COMPENSATION  
OF THE BRIGHAM SURGICAL GROUP  
FOUNDATION, INC., and  
PETER BLACK, M.D.

Defendants.

**SUPPLEMENTAL AGREED STATEMENT OF FACTS FOR**  
**CROSS SUMMARY JUDGMENT MOTIONS**

Pursuant to the Court’s Order dated November 15, 2005, plaintiff Eben Alexander, III, M.D. (“plaintiff”) and defendants Brigham and Women’s Physicians Organization, Inc., Boston Neurosurgical Foundation, Inc., Brigham Surgical Group Foundation, Inc. Deferred Compensation Plan, Brigham Surgical Group Foundation, Inc. Faculty Benefit Retirement Plan, Committee on Compensation of the Brigham Surgical Group Foundation, Inc. and Peter Black (collectively, “defendants”) submit this supplemental agreed statement of facts in connection with the pending cross summary judgment motions.

1. The average compensation of employees who received contributions to the UDC plan account during fiscal year 1997 was \$537,929.

2. The average compensation of employees who received contributions to the UDC plan account during fiscal year 1998 was \$581,320.

3. The average compensation of employees who received contributions to the UDC plan account during fiscal year 1999 was \$466,775.

4. The average compensation of employees who received contributions to the FRBP plan account during fiscal year 1997 was \$468,841.

5. The average compensation of employees who received contributions to the FRBP plan account during fiscal year 1999 was \$429,590.

6. The average compensation of all Brigham Surgical Group Foundation, Inc. ("BSG") employees for fiscal year 1997 was \$83,403.

7. The average compensation of all BSG employees for fiscal year 1998 was \$80,491.

8. The average compensation of all BSG employees for fiscal year 1999 was \$74,376.

9. During fiscal year 1997, twelve (12) BSG employees contributed to the UDC plan account, comprising 5.0% of the total employee population. The names of those employees are as follows: David H. Adams, MD; Eben Alexander, III, MD; Sary F. Aranki, MD; Peter M. Black, MD, PhD; Lawrence H. Cohn, MD; John J. Collins, Jr., MD; Gregory S. Couper, MD; Magruder C. Donaldson, MD; Dennis P. Orgill, MD; Robert J. Rizzo, MD; Philip E. Stieg, MD; and David J. Sugarbaker, MD.

10. During the fiscal year 1998, nine (9) BSG employees contributed to the UDC plan account, comprising 3.3% of the total employee population. The names of those employees are as follows: David H. Adams, MD; Sary F. Aranki, MD; Lawrence H. Cohn, MD; Gregory S. Couper, MD; Magruder C. Donaldson, MD; Francis D. Moore, Jr., MD; Julian J. Pribaz, MD; Robert J. Rizzo, MD; and David J. Sugarbaker, MD.

11. During the fiscal year 1999, eleven (11) BSG employees contributed to a UDC account, comprising 3.4% of the total employee population. The names of those employees are as follows: David H. Adams, MD; Sary F. Aranki, MD; Lawrence H. Cohn, MD; Gregory S. Couper, MD; Magruder C. Donaldson, MD; Elof Eriksson, MD, PhD; Dennis P. Orgill, MD; Robert J. Rizzo, MD; David J. Sugarbaker, MD; Scott J. Swanson, MD; and Eric J. Woodward, MD.

12. During the fiscal year 1997, sixteen (16) BSG employees contributed to an FRBP account, comprising 6.6% of the total employee population. The names of those employees are as follows: David H. Adams, MD; Eben Alexander, III, MD; Sary F. Aranki, MD; Stanley Ashley, MD; Peter M. Black, MD, PhD; David C. Brooks, MD; Lawrence H. Cohn, MD; John J. Collins, Jr., MD; Gregory S. Couper, MD; Magruder C. Donaldson, MD; Francis D. Moore, Jr., MD; Dennis P. Orgill, MD; Robert J. Rizzo, MD; Philip E. Stieg, MD; David J. Sugarbaker, MD; and Michael J. Zinner, MD.

13. During the fiscal year 1999, fifteen (15) BSG employees contributed to an FRBP account, comprising 4.6% of the total employee population. The names of those employees are as follows: David H. Adams, MD; Sary F. Aranki, MD; Peter M. Black, MD, PhD; Lawrence H. Cohn, MD; Gregory S. Couper, MD; Magruder C. Donaldson, MD; Elof Eriksson, MD, PhD; Francis D. Moore, Jr., MD; Dennis P. Orgill, MD; Jerome P. Richie; Robert J. Rizzo, MD; David J. Sugarbaker, MD; Scott J. Swanson, MD; Anthony D. Whittemore, MD; and Eric J. Woodward, MD.

EBEN ALEXANDER, III, M.D.

By his attorneys,

/s/ Colleen C. Cook

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Respectfully submitted,

BRIGHAM AND WOMEN'S  
PHYSICIANS ORGANIZATION, INC.,  
BOSTON NEUROSURGICAL  
FOUNDATION INC., BRIGHAM  
SURGICAL GROUP FOUNDATION,  
INC. DEFERRED COMPENSATION  
PLAN, BRIGHAM SURGICAL GROUP  
FOUNDATION, INC. FACULTY  
RETIREMENT BENEFIT PLAN,  
COMMITTEE ON COMPENSATION OF  
THE BRIGHAM SURGICAL GROUP  
FOUNDATION, INC., and PETER  
BLACK, M.D.,

By their attorneys,

/s/ David C. Casey

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